

MONTANA LEGISLATIVE HISTORY

Chapter 247 19 65

Bill H _____ S 111 Original bill & history ____C

H. Committee on Public Health

Hearing Date(s) 2-23 ☒ C

only ask

receiving

no other

info or

status

sheet for

committee

Date Out _____ C

S. Committee on Public Health

Hearing Date(s) 2-2 ☒ C

no other

informa

C

C

C

C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____

Report _____

Senate Public Health 1965

COMMITTEE ON PUBLIC HEALTH, NUTRITION AND DISEASE

JAN. 1965

BILL NO.	ENTERED COMM.	OUT OF COMM.	DO PASS	DO NOT PASS	DO PASS AS AMENDED	BE CON- CURRED IN	BE NOT CON- CURRED IN
SB 9	1-12-65	1-12-65	*				
SB 10	1-14-65						
HB 51	1-14-65						
HB 19	1-14-65						
SB 36	1-19-65	1-26-65			X		
HJR 11	1-19-65	1-19-65				*	
SB 55	1-21-65	1-21-65			X		
SB 57	1-21-65	1-21-65			X		
SB 58	1-21-65	1-21-65			X		
SB 83	1-23-65	1-23-65			X		
HJR 2	1-23-65	1-23-65				X	
SB 128	1-26-65	1-26-65	X				
SB 137	1-26-65	1-26-65	X				
SB 130	1-26-65	1-26-65	X				
HJR 2	1-25-65	1-28-65				XXX	
HB 23	1-22-65	1-28-65				XXX	
SB 127	1-22-65	1-30-65			XXX		
SB 111	1-21-65	2-2-65			XXX		

MR. PRESIDENT:

We, your Committee on.....**Public Health, Welfare**
having had under consideration.....**Senate**

"AN ACT RELATING TO THE LICENSING OF DAY CARE"

Respectfully report as follows: That.....**Senate**.....Bill
BE AMENDED AS FOLLOWS:

**Amend the original bill page 1, section 1, line 14 :
words "of seperate families"**

**And further amend: page 1, line 20, section 1 af
words "of seperate families"**

**And further amend: page 2, section 4, line 28 af
word "day" and after the word "care" by striking
after the word "care" the word "facilities"**

February 2,

19 65

Health, Welfare & Safety

Senate

Bill No. 111

ING OF DAY CARE FACILITIES FOR CHILDREN."

Senate

Bill No. 111

on 1, line 14 after the word "children" add the

section 1 after the word "children" add the

, line 28 after the word "in" by striking the
by striking the word "centers" and inserting
ilities"

Amend the original bill page 1, section 1, line 1
words "of seperate families"

And further amend: page 1, line 20, section 1 at
words "of seperate families"

And further amend: page 2, section 4, line 28 at
word "day" and after the word "care" by striking
after the word "care" the word "facilities"

And further amend: page 4, section 6, sub section
by striking the word "enforced" and inserting the

And further amend: page 5, section 7, lines 2 &
last sentence

And further amend: page 5, section 9, line 13
the words "or their authorized representative"

And further amend: page 5, section 9, line 17 at
the words "or their authorized representative"

And as so amended

Do Pass.

section 1 after the word "children" add the

4, line 28 after the word "in" by striking the
by striking the word "centers" and inserting
ilities"

6, sub section (f), line 22 after the word "be"
inserting the words "in force"

7, lines 2 & 3 after the "." by striking the

9, line 13 after the word "welfare" by inserting
representative"

9, line 17 after the word "board" by inserting
representative"

Chairman

O'NEILL

127

Received from the

Public Health

House Bills No.

111



Russell
By 71

Received from the

Public Health Officer

House Bills No.

S. B. 127

By M Chilton

Feb 23

1965

Committee

Russell Dallas
By M. Chilton

Feb 19

1965

Wife & Safety Committee

deem the principal amount of each such bond at maturity or, if prepayable, at *said* redemption date, and any premium required for redemption on such date; and the resolution or indenture authorizing the refunding bonds shall irrevocably appropriate for these purposes the escrow fund and all income therefrom, and shall provide for the call of all prepayable bonds in accordance with their terms. The securities to be purchased with such escrow funds shall be limited to general obligations of the United States, securities whose principal and interest payments are guaranteed by the United States, and securities issued by the following United States government agencies: banks for co-operatives, federal home loan banks, federal intermediate credit banks, federal land banks, and the federal national mortgage association. Such securities shall be purchased simultaneously with the delivery of the refunding bonds.

Qualified securities.

Use of excess revenues.

(d) Revenues or other funds on hand, in excess of amounts pledged by resolutions or indentures authorizing outstanding bonds for the payment of principal and interest currently due thereon and reserves securing such payment, may be used to pay the expenses incurred by the regents for the purpose of such refunding, including but without limitation the cost of advertising and printing refunding bonds, legal and financial advice and assistance in connection therewith, and the reasonable and customary charges of escrow agents and paying agents. Revenues and other funds on hand, including reserves pledged for the payment and security of outstanding revenue bonds, may be deposited in an escrow fund created for the retirement of such bonds and may be invested and disbursed as provided in subsection (c) hereof, to the extent consistent with the resolutions or indentures authorizing such outstanding bonds.

Sale or exchange of bonds—approval by state controller.

(8) Sell bonds and sell or exchange refunding bonds issued hereunder in such manner and upon such terms as to maturities, interest rates and redemption privileges, and for such price, as the regents shall determine with the approval of the state controller."

Effective immediately.

Section 3. This act is effective on its passage and approval.

Approved March 9, 1965.

CHAPTER 247

An Act Relating to the Licensing of Day Care Facilities For Children.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Definitions.** The word "child" wherever used in this act shall mean any person under twelve years of age. "Day Care Facility" shall mean any person, group of persons, association or place, incorporated or unincorporated, that receives for care during the day or a part of the day three or more children of separate families and continues this type of care for five or more consecutive weeks. It excludes the person who limits care to children who are related to him by blood or marriage or under his legal guardianship and all group facilities established chiefly for educational purposes. "Family Day Care Home" shall mean a family home that receives from three to six children of separate families for care during the day or part of the day for five or more consecutive weeks. "Day Care Center" shall mean any day care facility that receives seven or more children for care for five or more hours of the day for five or more consecutive weeks. It may include facilities known as child care centers, nursery schools, day nurseries, and centers for the mentally retarded.

"Child."

"Day Care Facility."

Exclusions.

"Family Day Care Home."

"Day Care Center."

Section 2. **License required—term of license—no fee charged.** No person, group of persons, or corporation shall establish and maintain a day care facility for children unless licensed to do so by the state board of public welfare. The license shall be valid for one year. There shall be no fee for the license.

License required—term of license—no fee.

Section 3. **Standards for child care.** The state board of public welfare shall prescribe and publish minimum standards for a license. In developing these standards the department shall seek the advice and assistance of the state board of health and superintendent of public instruction, representatives of day care facilities, specialists in child care, and representatives of parent groups who use the services of day care facilities. The standards may pertain to:

Standards for child care.

Standards may pertain to.

(a) character, suitability, and qualifications of applicant, and other persons directly responsible for the care of children

(b) the number of individuals or staff required for adequate supervision and care of children in day care centers

(c) child care programs and practices essential to the protection of health, safety, development, and well-being of children

(d) adequate and appropriate admission policies

(e) adequacy of physical facilities and equipment

(f) general financial ability and competence of applicant to provide necessary care for children and maintain prescribed standards.

Fire safety—
certification re-
quired by state
fire marshal.

Section 4. **Fire safety—certification required by state fire marshal.** The state fire marshal shall adopt, promulgate, and enforce rules and regulations for the protection of children in care facilities from fire hazards, and arrange for such inspections and investigations as he deems necessary. Each applicant for a license to operate a day care center shall submit to the department of public welfare a certificate of approval indicating that fire safety rules and regulations have been met before a license can be issued, provided that in all non-fire-resistant homes two stories or more in height with ten or more children, automatic sprinkler systems acceptable to the State Fire Marshal shall be installed, with said State Fire Marshal to issue for the information and use of the Board, certificates of compliance with fire regulations and standards applicable to the facilities.

Automatic sprinkler
system required
—when.

Health protection
—certificate re-
quired by state
board of health.

Section 5. **Health protection—certificate required by state board of health.** The state board of health shall adopt rules and regulations for the protection of children in day care centers from the health hazards of overcrowding, food preparation and communicable diseases and arrange for such inspections and investigations as it deems necessary. Each applicant for a license to operate a day care center shall submit to the board of public welfare a certificate of approval that state board of health rules and regulations have been met before a license can be issued.

Licenses issued by
the board of
public welfare.

Section 6. **Licenses issued by the board of public welfare—rules and regulations—minimum requirements of licensees.** The state board of public welfare is hereby

authorized and directed to issue licenses to persons to receive into a day care facility, children for care during the day or part of a day. This includes agencies now caring for such children who may desire to operate as a day care facility in the future. Application for a license shall be made to the state board of public welfare through the county department of public welfare in the county in which the applicant lives, on forms prescribed by the state board. Upon receipt of the application, the state board of county welfare department, shall, within a reasonable time, make an investigation to determine whether or not a license should be granted.

The state board of public welfare shall prescribe the conditions upon which such licenses are issued, and will make such rules and regulations for the conduct of the affairs of such facilities as are consistent with the welfare of the children received, provided; however, that the said state board of public welfare must issue licenses to agencies meeting the following minimum requirements;

Rules and
regulations.

(a) the applicant, his employees, and all those persons who will come in direct contact with the children shall be of good moral character

Minimum
requirements.

(b) the staff of the facility shall be sufficient in number to provide adequate supervision and care of the children admitted

(c) essential programs and practices carried on by the facility staff shall be developed and carried out with due regard for the protection of the health, safety, development, and well-being of the children

(d) applicant and staff shall be qualified by practical experience or education or training, to give good care and treatment to the children

(e) physical facilities shall be of a kind that can meet the minimum state standards to provide for the protection of the children from fire and health hazards

(f) intake records shall be kept on each child admitted for care. Public liability insurance and fire insurance shall currently be in force for the protection of the operator, his staff and the facility

(g) the applicant and staff will limit admissions to the maximum number indicated on the current license

(h) the applicant will arrange for the necessary precautions to guard against communicable diseases.

Provisional license. Section 7. **Provisional license.** The state board of public welfare may, in its discretion, issue a provisional license for a period of not more than six months if it finds that a substandard day care facility is attempting to meet the minimum standards. The requirement that a day care center shall be certified by the state fire marshal and the state board of health may not be waived.

License renewal. Section 8. **License—renewal.** If a licensed day care facility desires to apply for a renewal of its license, a request for renewal shall be made in writing to the state board of public welfare ten days prior to the expiration of its license.

Supervision
—inspection
—consultation
—records
—reports.

Section 9. **Supervision — inspection — consultation — records — reports.** It shall be the duty of the board of public welfare or their authorized representative to make periodic visits to all licensed day care facilities to insure that minimum standards are maintained and to give consultation upon request to every licensee who desires to upgrade the services of his facility. It shall be the duty of the board or their authorized representative to assist applicants in meeting the minimum requirements. It shall be the duty of every applicant and every licensee to give right of entrance and inspection of premises to representatives of the board, at reasonable times, to keep and maintain such records as the board may prescribe, to permit inspection of these records, and to report to the board such facts as may be required on blanks furnished by the board.

License—denial. Section 10. **License — denial — nonrenewal — revocation — hearing.** The board, after notice and opportunity for hearing to the applicant of licensee, is authorized to deny, suspend or revoke a license in any case in which it finds that there has been a substantial failure to comply with the requirements established under this law. Such notice shall be effected by registered mail, or by personal service setting forth the particular reasons for the proposed action and fixing a date not less than thirty (30) days from the date of such mailing or service, at which the applicant or licensee shall be given an opportunity for a prompt and fair hearing. On the basis of any such hearing, or upon default of the applicant or

Notice of hearing.

Determination by board.

licensee the board shall make a determination specifying its findings of fact and conclusions of law. A copy of such determination shall be sent by registered mail or served personally upon the applicant or licensee. The decision revoking, suspending or denying the license or application shall become final thirty (30) days after it is so mailed or served, unless the applicant or licensee within such thirty (30) days' period, commences an action in the district court, pursuant to this section. The procedure governing hearings authorized by this section shall be in accordance with rules promulgated by the board with the advice of the advisory council. A full and complete record shall be kept of all proceedings, and all testimony shall be reported but need not be transcribed unless the decision is reviewed pursuant to this section. A copy or copies of the transcript may be obtained by any interested party on payment of the cost of preparing such copy or copies. Witnesses may be subpoenaed by either party.

Any applicant or licensee of the state aggrieved by the decision of the board after a hearing, may, within thirty (30) days after mailing or serving of notice of the decision as provided in this section, commence an action in the district court of the county in which the long term care facility is located or to be located, by the filing of a verified complaint against the board as defendant, and summons shall issue and all further proceedings be conducted as in the case of ordinary civil actions. The board shall, upon filing its answer, certify and file therewith in the Court wherein the action is pending a certified copy of the record and decision, including the complete transcript of the hearings on which the decision is based. Findings of fact by the board shall be conclusive unless substantially contrary to the weight of the evidence, or unless in conflict with law, but upon good cause shown the court may remand the case to the board to take further evidence, and the board may thereupon affirm, reverse or modify its decision. The court may affirm, modify or reverse the decision of the board and either the applicant or licensee or the board or state may apply for such further review by appeal or otherwise, as is provided by law. Pending final disposition of the matter the status quo of the applicant or licensee shall be preserved, except as the court otherwise orders in the public interest.

Decision to become final—when.

Procedure.

Record.

Action in district court by aggrieved party.

Certified copy of record and decision of board to be filed with court.

Findings of fact by board to be conclusive—exception.

Decision—further appeal.

Violations—
investigation.Remedy for
violation.

Other action.

Legal actions
in name of.

Section 11. **Violations.** Whenever the board of public welfare is advised or has reason to believe that any person, group of persons, or corporation is operating a child care facility without a license, it shall make an investigation to ascertain the facts. If it finds that such child care facility is being, or has been, operated without a license, it may report the results of its investigation to the attorney general of this state or the county attorney of the county where the child care facility is being operated for prosecution and request that an injunction be issued against the facility until a license is issued. In addition to the foregoing, the state board of public welfare, or its authorized agent, may institute such action at law or in equity as may appear necessary to enforce compliance with any provision of this act, or to enforce compliance with any order, rule, or regulation of the board pursuant to the provisions of this act, or to obtain a judicial interpretation of any of the foregoing, and in addition to any other remedy, the board, under unanimous consent of all its members, may apply to the district court of the district wherein the action arises for relief by injunction, mandamus, or any other appropriate remedy in equity without being compelled to allege or prove that an adequate remedy at law does not otherwise exist, nor shall the board be required to give or post bond in any action to which it is a party, whether upon appeal or otherwise. All legal actions may be brought by or against the board in the name of Montana state board of public welfare, and it shall not be necessary in any action to which the board is a party, that such action be brought by or against the state of Montana on relation of the Montana state board of public welfare. The board shall have the power to institute action by its own attorney or counsel, but it shall have the right, if it deems advisable, to call upon any county attorney to represent it in the district court of the county in which the action is taken, or the attorney general to represent it on appeal to the supreme court of Montana, or it may associate its own counsel with either in any court.

Approved March 9, 1965.

CHAPTER 248

An Act Relating to State Fiscal Procedures and Certain Funds and Accounts; Amending Sections 84-1812(1),

81-1502, 43-803, 46-1107, 59-1106, 3-1717, 3-2014, and 3-2016, R. C. M. 1947; and Repealing Section 84-1812(2), R. C. M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 5, Chapter 126, Laws of 1963, compiled as Section 84-1812(1), R. C. M. 1947, is amended to read as follows:

"84-1812. *One percent (1%) of all money received in payment of license taxes under the provisions of this act shall be deposited in the state park account in the earmarked revenue fund. All other money received, except that amount paid out of the state board of equalization's suspense account for gasoline tax refund shall be used and expended by the state highway commission on the federal highway system of highways in this state selected and designated under the provisions of the federal aid act, approved July 11, 1916, and the federal highway act, approved November 9, 1921, and all amendments thereto, and on highways leading from each county seat in the state to said federal highway system of federal aid roads where such county seat is not on said system, and on such other roads as have been or may be authorized by the laws of Montana, for the collection and enforcement of this act, pursuant to the provisions of article XII, section 1 (b) of the constitution of the state of Montana; provided, that the total cost to the state for administration, dissemination of public information, and engineering on the federal aid work contemplated by this act shall not exceed for any fiscal year eight per centum (8%) of the total of state, federal aid and other available funds expended under the supervision of the state highway commission. It shall be the duty of the state highway commission, in expending such money, to carry forward construction from year to year, using the money expended through the matching up of federal aid allotments to Montana upon the said federal highway system of highways in the various parts of the state in accordance with the provisions of section 84-1817; provided that nothing in this act shall be construed to conflict with said federal aid highway acts and the rules by which they are administered. The state highway commission is authorized to enter into co-operative agreements with the national park service and the bureau of public roads for the purpose of maintaining national park approach roads in Montana.*

Amending clause.

Proceeds of license
taxes shall be used
by highway
commission.Limitation
on costs—8%.Duty of state
highway
commission.Not to conflict
with federal-aid
highway acts.